

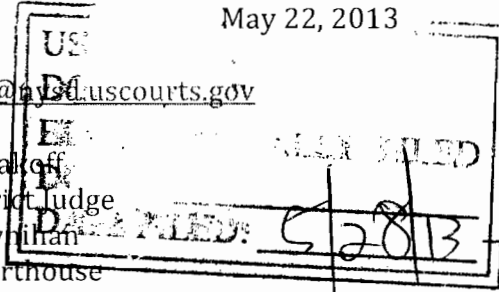
MEMO ENDORSED**CARNEY ▼ BATES ▼ PULLIAM**

Carney Bates & Pulliam PLLC

May 22, 2013

Via Amy marshak@nyusdc.uscourts.gov

Honorable Jed S. Rakoff
United States District Judge
Daniel Patrick Moylan
United States Courthouse
500 Pearl Street, Room 1340
New York, NY 10007-1312

**ORDER
ENDORSED**Re: *In re BISYS Securities Litigation*, Civil Action No. 04-CV-3840

Dear Judge Rakoff,

Pursuant to instructions received from chambers, the present correspondence serves to update the Court regarding recent events in the above matter, seeks approval for payment of the claims administrator's outstanding invoices for past and expected future services, and requests authorization to distribute the remaining funds held in the BISYS Settlement Fund to class members.

As this Court is aware, the distribution of the BISYS Fund has been accomplished in two phases. First, between May 29, 2009 and September 16, 2010, \$36,622,510.03 was distributed to class members. *See* attached Affidavit of Accounting executed by Anya Verkhovskaya. As is typical, several hundred checks were returned, or otherwise remained uncashed past the void date, resulting in an undistributed total of \$1,610,191.55. *Id.* Accordingly, between January 20, 2011 and March 2, 2012, a second distribution was made. *Id.* Again, because of returned and uncashed checks, there remains \$50,573.33 in the BISYS Settlement Fund.

Additionally, as of May 21, 2013, \$150.00 is held by the United States District Clerk for the Southern District of New York. These monies represent additional restitution payments made by Mr. Cauley. We respectfully request this Court authorize transfer of these funds to the BISYS Settlement Fund.

The claims administrator, A.B. Data, has invoiced the Settlement Fund \$13,538.71 for services associated with the second distribution and subsequent activities. Further, A.B. Data estimates that it will incur an additional \$3,268.54 in fees associated with the third distribution. We respectfully request that the Court authorize payment of these fees.

Finally, we seek authorization to distribute the remaining \$31,587.06. In light of the relatively limited funds remaining in the BISYS Settlement Fund, a distribution to each of the prior claimants is imprudent. In consultation with the

claims administrator, we recommend a \$50.00 *de minimus* level for payment. However, included for the Court's consideration is an estimated breakdown of payments under various *de minimus* scenarios, pursuant to the plan of allocation.

<i>De minimus</i> Level	# of Class Members Receiving Payments
\$100.00	93/6404
\$50.00	149/6404
\$25.00	241/6404
\$10.00	428/6404

We have conferred with counsel to the successor in interest to BISYS (the "Company"). The Company notes that per the Court's handwritten notation to paragraph 11 of the Settlement Distribution Order dated November 26, 2008 (the "Order"), "any *de minimis* balance still remaining in the Net Settlement Fund shall be remitted to BISYS or its successor in interest." If the Court determines that the BISYS Settlement Fund (net of payment to A.B. Data) should be returned to the Company per the Order, the Company will accept the funds. If, on the other hand, the Court believes that the money should be distributed to certain class members as proposed by class counsel above, the Company has no objection to such distribution.

Based upon the foregoing, we hereby respectfully request an Order: (i) authorizing the United States District Court Clerk for the Southern District of New York to transfer the balance of funds held to the BISYS Settlement Fund; (ii) authorizing payment of A.B. Data's outstanding invoices; and (iii) authorizing the distribution of the remaining BISYS Settlement Fund at a \$50.00 *de minimus* level.

In the event future restitution payments are made by Mr. Cauley into the registry of the District Clerk, we will contact the Court to request additional distributions.

As always, we are available should the Court have any questions or comments about this matter.

Sincerely,



Allen Carney

→ So Ordered. If, after this final distribution, there remains any balance (such as from uncashed or returned checks), or if any further payments are received from Mr. Cauley, the balance will be automatically sent to the company.

11311 Arcade Drive, Suite 200, Little Rock, AR 72212

P. 501-312-8500 F. 501-312-8505 TF. 888-551-9944

SO ORDERED

JSR/M, USAJ
5/25/13

5. As part of the initial distribution to Class Members, on May 29, 2009, 14 wire transfers to Class Members were effectuated, totaling \$8,939,055.02.

6. Between June 12, 2009, and September 16, 2010, A.B. Data issued 5,260 checks to Class Members, including subsequently reissued checks, totaling \$27,769,889.96. Of those 5,260 checks issued to Class Members in the initial distribution, 4,874 checks (whether the initial check or a subsequently reissued check) totaling \$26,635,045.55 were cashed.

7. 225 checks totaling \$430,685.39 were returned, and 157 checks totaling \$674,477.17 were not cashed prior to their applicable void date. Four checks totaling \$29,681.85 were refunded.

8. After the payment of A.B. Data's fees, a total of \$1,610,191.55 remained undistributed from the Net Settlement Fund.

9. Pursuant to Paragraph 5.5 of the Stipulation and Agreement of Settlement, any funds remaining in the Settlement Fund six months after initial distribution were to be reallocated among Authorized Claimants in an equitable fashion. As such, a second distribution was initiated.

10. A check for \$6.68 was reissued from the initial distribution, and additional deposits were made, totaling \$2,336.00. \$1,000.00 was withheld for the payment of taxes and A.B. Data's fees were paid, bringing the total available for redistribution to \$1,605,441.55.

11. On January 20, 2011, ten wire transfers totaling \$273,898.78 were effectuated. Between January 20, 2011, and March 2, 2012, A.B. Data issued 5,070 checks to Class Members, including subsequently reissued checks, totaling

\$1,342,357.54. Of those 5,070 checks issued to Class Members in the second distribution, 4,518 checks (whether the initial check or a subsequently reissued check) totaling \$1,289,911.06 were cashed.

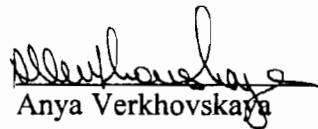
12. 20 checks totaling \$1,434.05 were returned, and 10 checks totaling \$2,347.56 were not cashed prior to their applicable void date.

REMAINING FUNDS


13. A total of \$50,573.33 remains in the Settlement Fund account. After payment of A.B. Data's outstanding fees, a total of \$37,034.62 remains available.

I declare under penalty of perjury that to the best of my knowledge, the foregoing is true and correct.

Executed this 26 day of April, 2013, at Milwaukee, Wisconsin.


Anya Verkhovskaya

SUBSCRIBED and SWORN before me this 26 day of April, 2013.


Mary Rebekah Thigpen, Notary Public
My Commission is Permanent.

